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ATTORNEYS FOR HEALTHTECH
MANAGEMENT SERVICES, INC.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

POWELL VALLEY HEALTH CARE, INC.,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 12-CV-0042-F
)	
HEALTHTECH MANAGEMENT SERVICES, INC.,)	HealthTech Management
)	Services, Inc.’s Motion for
Defendant/Crossclaimant.)	Leave to Take Deposition of
)	Confined Defendant
v.)	
)	
PAUL CARDWELL and MICHAEL J. PLAKE,)	
)	
Defendants/Cross-Defendants.)	

Plaintiff HealthTech Management Services, Inc. (“HealthTech”) hereby moves the court for an order, pursuant to Rule 30(a)(2)(B) of the Federal Rules of Civil Procedure, granting

HealthTech leave to take the deposition upon oral examination of Defendant Paul Cardwell, who is confined in the custody of the United States Marshals Service at a location currently unknown to HealthTech. HealthTech additionally requests leave to take such deposition, by video teleconference from the federal courthouse in Cheyenne to the federal courthouse in Nashville, Tennessee, if feasible. In support of this Motion, HealthTech would show as follows:

1. As the Court and the parties are aware, discovery in this matter is currently scheduled to close on July 29, 2013, and a jury trial to determine the amount of punitive damages to be awarded is currently set for August 19 (although, to HealthTech's understanding, the trial may be postponed slightly at HealthTech's request). Meanwhile, Defendant Cardwell is a defendant in a pending criminal case also pending before this Court. Because Defendant Cardwell jumped bail and fled to Thailand after being released in connection with his criminal case, he has denied HealthTech the opportunity to depose him. However, Cardwell recently was apprehended and returned to the United States, and is in the custody of the United States Marshal's Service. Therefore, HealthTech is in a position to finally depose Cardwell, subject only to this Court's granting of leave to depose Cardwell.

2. Under Rule 30(a)(2)(B), this Court has the authority to grant such leave and must do so per Rule 26(b)(2). *See* Fed. R. Civ. P. 30(b)(2)(A). In this case, it would be entirely consistent with Rule 26(b)(2), and otherwise proper, to allow HealthTech to depose Cardwell – and to allow it to do so while Cardwell is in custody. HealthTech seeks to depose Cardwell for proper, and indeed crucial, purposes; it seeks to obtain from Cardwell (to the extent that

Cardwell does not validly invoke the Fifth Amendment privilege not to incriminate himself), evidence that is, or would lead to, admissible evidence bearing on the amount of punitive damages against Cardwell – including the reprehensibility of his conduct and the nature and extent of his assets. Moreover, any such deposition would have to take place while Cardwell is incarcerated, because the discovery deadline is fast approaching and Cardwell, solely through his own actions, has subjected himself to pretrial detention of an indefinite duration.

3. As noted, HealthTech is not aware of where Cardwell currently is being detained or where he may be detained in the near future; apparently he is somewhere in transit from the Northern District of California to the District of Wyoming, where he will have a court appearance and then be detained somewhere in the general (if not near) vicinity of Cheyenne. HealthTech therefore cannot provide any details as to where the deposition would take place were it to be conducted at his place of pretrial detention. However, HealthTech can suggest that he be brought to the federal courthouse in Cheyenne so that his deposition can be taken via video teleconference link to the federal courthouse in Nashville, Tennessee, if so doing is feasible technically. HealthTech would request this, because its counsel who would conduct the deposition is based in Nashville and because HealthTech believes (absent a contrary indication from the U.S. Marshal's Service) that bringing Cardwell to the courthouse in Cheyenne would not be logistically difficult. The courthouse environment also might be a superior location in terms of logistics for conducting the deposition.

4. HealthTech requests that the date of the deposition be set for July 26, although it is amenable to other dates as well, either before or after the otherwise-applicable discovery deadline.

WHEREFORE, Plaintiff HealthTech Management Services, Inc. respectfully requests that it be granted leave to take the deposition of Defendant Cardwell while he is in the custody of the U.S. Marshal's Service in an appropriate location to be ordered by the Court, including if feasible via video teleconference link from the federal courthouse in Cheyenne to the federal courthouse in Nashville.

DATED: July 12, 2013.

/s/ Bradley T. Cave

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CERTIFICATE OF SERVICE

I hereby certify that on July 12, 2013, I served a true and correct copy of the foregoing by CM/ECF to the following:

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